

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR**DIVISION BENCH**

CORAM : **HON'BLE SHRI S.R. NAYAK, C.J.**
 HON'BLE SHRI D.R. DESHMUKH, J.

W.P. NO.325 OF 1999**PETITIONER**

M.P. Rajya Van Vikas Nigam
 Through its Managing Director,
 Bhopal (M.P).

Versus**RESPONDENTS**

1. Ganesh Baghel
 Son of Shri Birjoram Baghel, aged
 41 years, resident of Kududand
 Ward No.2, Bilaspur (M.P).
2. The M.P. State Administrative
 Tribunal, through its Registrar,
 Jabalpur (M.P).

Present : Shri V.R. Tiwari, learned counsel for the petitioner.

Smt. Renu Kochar, learned counsel for respondent No.1.

(ORAL ORDER)
(Passed on 21st March, 2006)

The following order of the Court was passed by
S.R. Nayak, C.J.

This writ petition preferred by M.P. Rajya Van Vikas Nigam represented by its Managing Director is directed against the order dated 07-12-1998 passed in Transferred Application No.3472/88 by M.P. Administrative Tribunal, Jabalpur.

(2) The first respondent herein while serving as Kshetriya Sahayak in the establishment of the petitioner/Corporation on temporary basis was removed from the service by an order dated 25.01.1982. The Administrative Appeal preferred by the first respondent herein against the said action went in vain. That led to the first respondent herein preferring a writ petition under Article 226 of the Constitution bearing W.P.

No.815/1988 before the Madhya Pradesh High Court. On establishment of the Madhya Pradesh Administrative Tribunal at Jabalpur, the said writ petition was transferred to the Tribunal and the same came to be registered as Transferred Application No. 3472/1988.

(3) The writ petition/application was opposed by the petitioner/Corporation herein by filing return. Among other grounds raised in defence, it was also specifically contended by the petitioner/Corporation that the application filed by the first respondent herein is not maintainable before the Tribunal on the ground that the State Government did not issue notification envisaged under sub-Section (2) of Section 15 of the Administrative Tribunals Act, 1985 (for short 'the Act'). The Tribunal as could be seen from para 9 of the Order brushed aside the said contention raised by the petitioner/Corporation by observing that in its order passed in the case of R.P. Soni Vs. State of M.P. and others (O.A. No.1964/97, disposed on 01.10.1997), it had held that the petitioner Corporation is part and parcel of Forest Department of M.P. and in view of the said finding, it has jurisdiction to entertain the application of the first respondent herein.

(4) The same contention was reiterated before us by learned counsel for the petitioner/Corporation. In order to appreciate the contention, what is relevant is the provision of sub-Sections (1) and (2) of Section 15 of the Act. They read as follows:

"15. Jurisdiction, powers and authority of State Administrative Tribunals. - (1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to—

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(a) recruitment, and matter concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person {not being a person referred to in clause (c) of this sub-section (1) of section 14} appointed to any civil service of the State or any civil post under the State the pertaining to the service of the State or any civil post under the State and pertaining to the services of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation {or society} owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation [or society] or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.\

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations [or societies] controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies]."

(5) It is nobody's case that the case of the first respondent falls within the purview of sub-section (1) of Section 15 of the Act. If that is so, the Tribunal would acquire jurisdiction to entertain the application of an

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employee of the petitioner/Corporation only if the State Government has issued a notification envisaged under sub-Section (2) of Section 15 of the Act. It is also nobody's case that such a notification was issued by the State Government of Madhya Pradesh or the State Government of Chhattisgarh after formation of the new State. On the other hand, the letter of the Executive Director of petitioner/Corporation dated 01.03.2006 would show that no notification envisaged under sub-section (2) of Section 15 of the Act has yet been issued by the Government of Madhya Pradesh or Government of Chhattisgarh. In that view of the matter, it should be held that the Tribunal inherently lacked jurisdiction to entertain the application of the first respondent. Simply because, initially the first respondent had filed writ petition in the Madhya Pradesh High Court and that petition was transferred to the Tribunal after its establishment, that fact itself would not invest the jurisdiction in the Tribunal to entertain the application of the first respondent. The jurisdiction is a matter of law. In that view of the matter, we cannot sustain the impugned order, it being a nullity in the eye of law. Accordingly, we allow the writ petition and set aside the impugned order passed by the Tribunal and dismiss the application filed by the first respondent. However, this order shall not come in the way of the first respondent working out his legal remedies by the mode known to law. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subh